

DOCUMENT RESUME

02347 - [A1332301]

[Protest against the Award of a Construction Contract].  
B-188198. May 6, 1977. 2 pp.

Decision re: Robert Dougan Construction Co.; by Paul G.  
Dembling, Acting Comptroller General.

Issue Area: Federal Procurement of Goods and Services (1900).

Contact: Office of the General Counsel: Procurement Law I.

Budget Function: General Government: General Property and  
Records Management (804).

Organization Concerned: Elkhorn Construction Co.; White & Sons  
Construction, Inc.; Veterans Administration: Fort Lyon, CO.

The protester alleged that a notation in the low bid,  
which increased the price if offeror was awarded only one of two  
schedules in the invitation, rendered the bid nonresponsive.  
Since the low bidder was awarded both schedules, and the  
notation played no part in the evaluation for award process, the  
protest was denied. (Author/SC)

02347 2301

**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

3 copies  
Pro. 7

**FILE:** B-188198

**DATE:** May 6, 1977

**MATTER OF:** Robert Dougan Construction Company

**DIGEST:**

Protest that notation in low bid, which increased price if awarded only one of two schedules in invitation, called for rejection of bid as non-responsive is denied because low bidder was awarded both schedules and notation played no part in evaluation for award process.

Robert Dougan Construction Company (Dougan) protests any award of a contract to either Elkhorn Construction Company (Elkhorn), the low bidder, or White & Sons Construction, Inc. (White), the second low bidder, for the construction of a sewage treatment facility (schedule I) and the repair or replacement of storm and sanitary sewage lines (schedule II) under invitation for bids (IFB) No. 567-77-5, issued by the Veterans Administration (VA), Fort Lyon, Colorado.

Since the award has recently been made to the low bidder, and in view of our conclusion below, we will not discuss the protest against the award to the second low bidder.

The IFB was issued on November 1, 1976, and was opened as scheduled on December 29, 1976. Ten bids were received with five bidders submitting bids on all items in schedules I and II and the remaining bidders submitting bids only for the items in schedule I. The bids of the three low bidders are as follows:

	Schedule I		Schedule II				
	Item 1	Item 2	Item 1	Item 2	Item 3	Item 4	Item 5
Elkhorn	586,000	585,000	198,000	190,000	176,000	173,000	160,000
White	638,000	635,000	247,000	233,000	228,000	223,000	207,000
Dougan	673,000	673,000	NB	NB	NB	NB	NB

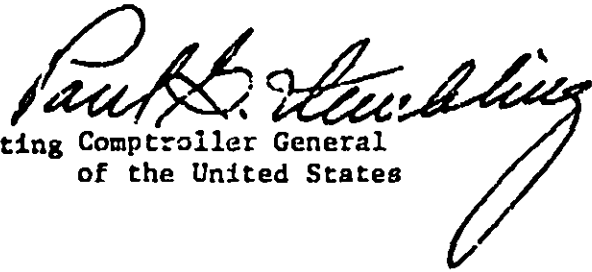
B-188198

The basis for award as stated in the IFB was:

"AWARD: A single award will be made on Item No. 1 of Schedule I and Item No. 1 of Schedule II but in the event the offer(s) exceed the funds available, single awards will be made on Item 2 of Schedule I and Item 2, 3, 4, or 5 of Schedule II. Offerors should quote a price on each item listed for Schedule I OR each item listed for Schedule II. Offerors desiring to bid on both Schedules may do so."

Elkhorn's bid noted that "If awarded only schedule II add \$30,000 to schedule II." The award to Elkhorn was for item 1 on both schedules. Dougan contends that the above notation on the Elkhorn bid calls for rejection of the bid as nonresponsive because (1) there is no provision in the IFB for such an alternate bid; (2) the IFB states that unless called for, alternate bids will not be considered; and (3) the bid has taken exception to the bidding conditions by limiting the firm's obligation to perform.

Because the award to Elkhorn covered item 1 in both schedules, the notation to which Dougan objects played no part in the evaluation for award process because that contingency never occurred. Consequently, the protest is denied.

  
Acting Comptroller General  
of the United States